



REDACTED

From: Melissa Gastgaber <melissag@salander.com>
Date: Wed, 08 Feb 2006 17:29:03 -0500
To: Earl Davis <mellowpad@earthlink.net>
Subject: Re: Response to LARRY's last e-letter

Dear Earl,

I read the first line of your letter and for reasons of self-preservation I could not and will not finish it.

The fact is that I know that you know that I love you and you know that I know you love me. Compared to that I don't give a damn about money. Therefore whatever you are thinking I did to hurt you or your father that has to do with whatever your conception of prices, allowed payment terms, etc that causes you any pain or is the motivation of the kind of letter I think yours is must need be taken care of. You may surmise any negative thing you can come up with or listen to advice from people with an axe to grind or are interested in speaking their malicious ignorance. I always have tried to do the best thing, in my opinion, for you and your father. That includes every aspect of my professional relationship and responsibility and putting my responsibilities to you and your interests (as my brother and someone I very much love) above my own. Even in some cases what I know was best for your father, I may have made mistakes in handling the work over the past 20+ years. I did not make a mistake in the most recent sale of 4 pictures. I am proud of the prices achieved even over a period of time - even aware (and I was) on the prices realized by 2 Davis paintings at auction the very same day. I have been doing this for a long time and know when to take advantage of situations that are made attractive by anomalies in the price structure. This was the case here and even so we achieved very good results. There's no need to get into an argument over the facts.

As I will not argue with you anymore about this I offer the following solution: I will pay you in full for whatever you think it is that I owe you or if you feel you need to have more than the sale price less commission all you need to do is write me a note of what you want in terms of money for the paintings sold that would satisfy you. I am prepared to live without my commission deducted or even more (within reason). I will pay in full on or before December 31, 2006. I will secure the debt by placing mutually agreed works of art in your possession should for any reason you not be paid in full by December 31, 2006. I will use my best efforts to pay the total amount due as soon as possible but in no event later than December 31, 2006. I want to use that as an outside limit so that I can live up to this without

disappointing you or killing myself. When you have a chance please send me and email or fax that states your opinion as to what I should pay you and should I then agree that it is reasonable, which I know it will be, I will ask you to come in order to pick out works of art as security. Should the gallery be delinquent in paying full by December 31, 2006 the title to the property held in security will become that of Earl Davis and be held or sold until the amount of debt is realized plus interest. The remaining art will then be returned to Salander-O' Reilly Galleries or the proceeds divided equally 50/50 on the total amount of money realized by the sale of the artwork over and above outstanding debt and interest due.

When we both feel we can handle it I think it would be a good idea to spend some time trying to figure out the future in professional terms and to clear the air to the extent its needed personally. You need not take my word about my great regard for you and your feelings. If I have not made that clear in my commitment to all that is you then I have not done a good enough job. In my heart of hearts I know and can point to many examples of actions taken or not that made my love and intentions for you clear. To itemize them is to turn something done purely into bullshit, which I refuse to do.

Love,
Larry

On 2/7/06 5:55 PM, "Earl Davis" <mellowpad@earthlink.net> wrote:

Melissa -

Well - that explains why I heard no response.

I sent this over 10 days ago.... please let me know you got this one.

thanks,

Earl

From: Earl Davis <mellowpad@earthlink.net>

Date: Fri, 27 Jan 2006 11:36:55 -0500

To: Larry Salander <melissag@salander.com>

Subject: Response to LARRY's last e-letter

Jan 24, 2006

Dear Larry -

While I very much appreciated your taking the time to respond to my last 'Alternative Proposal' there were a number of things in your response that compelled me to take some time to more deeply consider my reply. In the interest of saving ink - I am going to be as straight with you as possible in stating that your latest proposal left me feeling that you had dictated to me your terms as if it was the last word. Your offer of this new agreement unfortunately did not invite or express any curiosity as to whether I might actually agree. It also left me with a number of questions and requests. Regarding your deeply considered speculations about my relationship to my father's work, as well as your own personal testimony as to your experiences around your own father's death, I think that is a discussion that is better had in person. The following letter is devoted to

business at hand.

I will therefore pick up where my last letter left off - by reiterating and reminding you that my 'Alternative Proposal' had been conceived specifically in response to your own suggestion that I try to come up with a compromise solution that I "could live with" to your recent group painting sale of my father's paintings. The proposal that I then put forth to you was based, as I stated, entirely on your own offer of the possibility that you were willing to 'even borrow the money' to pay me up front if I preferred. Your subsequent blanket response to me that this was no longer an option and that the 'deal' still can't be undone - left me caught without a Back-up Plan - that had been IT. In addition to the fact that I am still fundamentally not happy with or willing to accept the terms of the deal that you made on my behalf, the modified payment proposal that you now put forth simply does not address the other primary problem that I have repeatedly tried to communicate to you. This concerns the fact that the bookkeeping and payment of funds due me from sales and contracts over the last 2 years has been mishandled and, to say the least, extremely sloppy. The thought of having to now lock-in and extend further forward my heightened sense of financial insecurity and dependency upon the uncertainty of your own ability to keep to a dependable payment schedule is simply intolerable. You have put me in the position of having to repeatedly pester a forever unknowing Andy and then to have to track you down and confront you about one thing after another. Haven't you any sense of how this feels on this end?

I believe that you genuinely felt that you were making the 'right' decision on my behalf with the recent painting deal and that you were shocked and even hurt by my own reaction. I also appreciate that, in spite of that, your latest payment offer is an expression of your genuine desire to now appease me. Be that as it may - I need you to hear what I keep feeling forced to have to repeat in ever balder terms - that I can simply no longer stand being in this incredibly awkward position of having to feel like I have become another one of your creditors and a financial weight around your neck. Larry - I value our friendship way too much to let it continue to be contaminated by such feelings.

In your letter of 1/4/06 - you made it crystal clear that you are convinced - to the point of 'certainty' ! - that you did the 'right thing' with this deal. In the face of such certainty - there is not much that I can say. I can't help, however, be reminded of your similar certainty about the authenticity of the unsigned copy of my father's painting "Arboretum" - against which you also compelled me to take an equally convicted stand. In the present case, however, we are not dealing with a matter of simple opinion. Although I respect your reasoning and feelings of certainty, as well as the possibility that you may ultimately turn out to be correct about the wisdom of the values that you placed on this latest group sale, this is not the Point! The Point is that the works are/were MY property and that you consciously made your decision to make this discounted sale without consulting me.

While I do not question your convictions or motives for making this deal happen - the exact reasons that you chose to go ahead without asking me are still unclear. Because we are talking about such significant paintings and prices - I require a sense of such clarity if I am to have any feeling of resolution, much less of gratitude. In your letter you indicated that you

had actually known and were aware that I would want to 'communicate' about it. The fact that you chose to go ahead and override this awareness 'in the heat of the deal' - does not, however, account for the separate additional little fact that you also happened to chose not to take or respond to either of my post-auction phone calls - which I apparently made while you were in the midst of the business of making the deal happen. In all honesty, Larry, while I always try to put myself in your shoes and to give you the benefit of any doubts - the way it feels on this end is that you either consciously or unconsciously chose to keep me out of your negotiations for fear that I might ruin the sale. (you even alluded to this obliquely when you mentioned the recent collapse of a Crawford deal you'd arranged). I don't know how else to account for such an unprecedented choice of action. If this was not the actual case - then I am truly sorry if these words insult you - but it is because you have left me with an unresolved and incomplete picture that I am forced to have to wonder.

If, on the other hand, there may be any subtle truth to this speculation - then it becomes quite clear why I have been unable to resolve myself to your action and why we now find ourselves with what has become a very big and expensive Problem. Your action felt and still feels like a fundamental violation of the long-standing trust and understanding that I have always placed in you. While this does not make me love or appreciate you any less - it makes me incredibly uncomfortably going forward - as it comes on top of 2 years of bad experiences that may have been trivial or simply annoying to you - but they came to define for me an increasing breakdown in the stability of our prior financial communication. From the moment Fern walked into your office - up through my excruciating experiences of having to confront you over the unpaid \$\$ due me from Yale, and then our 2 still-outstanding 'pre-sold' partnerships - things have been on an increasingly slippery slope. But this latest development is too much. You worry that I might secretly harbor Sarah K.-like prejudices - rather than appreciating just how incredibly willing to trust you and to understand I have been - all I ask is the honest story. I hold you in much higher regard than you can possibly imagine.

Concerning your new payment proposal - your statements that you are "unhappy about being put in this position", that I am making your life "more difficult financially" and that I am 'penalizing' you for 'doing the right thing' - Larry! - it is You who have put us both in this incredibly uncomfortable position - one that I have come to dread and detest - in which I find myself unwillingly and unfairly made to feel that the different monies that you have come to owe me are now a burden for you to have to pay. And now am I supposed to feel guilty? ungrateful? and that I am being unreasonable? - when I am merely trying to stand up for myself in the face of your ever more stunning and disrespectful actions. **As you should recall- I never heard a word from you or anyone that the Yale \$ had come in, nor that the 2 partnerships had fallen through. Through oversight or distraction - I was forced to have to come after you. If I don't stand up for my financial interests with the gallery - there is simply no one else for me to turn to that can be held accountable for following up on your own words and obligations. Whatever the additional stresses that you are under but which I am not privy to - I No Longer Want To Be One Of Them. I care about you as a person and can only imagine that you are so used to being in the middle of deals and of having to hold your cards close - that you don't realize how these little slip-ups have accumulated and unfairly imposed upon

our friendship - leaving me to have to write you this plague of letters about one thing after another.... The fact is that - I HATE IT! I want our friendship to be based on clarity and mutual trust and not being made to feel like I have to haunt you.

Sorry to be so blunt - but somehow when we are face to face it is impossible to say this stuff! Anyway - at this point, since you have reiterated to me your position that your deal can't be undone and indicated that you think that we have beaten this subject "into the ground", I am left feeling highly discouraged about trying to achieve a shift in our communications, much less, of reaching an agreement that we both can live with'. It is out of such deep concern that I put before you the following itemized list of questions and requests that I would very much appreciate your direct and simple itemized response to. If I am to ever make peace with your latest choice of action - I need to feel that I have been given the complete story and that I have been allowed the freedom to do my best to explore whatever potential options might still remain.....

1 - Who were this group of works sold to? (including their address + contact info for the SDCR and possibly myself)

2 - Why did your recent letter once again change the terms of the original payment plan you had first told me - from three years - to now four years!? (please don't say that you never told me three - as this little change is too similar to my very fresh experience of having heard you first tell me that three paintings were sold - only to later hear you declare that you had 'never said that' - but had told me four. - why else would I have been so shocked when you told me it was four to my face?)

3 - Exactly what are the actual reasons that the deal couldn't and can't be changed or undone?

3a - Did the collectors put any money down on these paintings to 'seal' the deal?

3b - If so - how much? and why couldn't you just be up-front with me about this?

3c - If not - then if no \$ changed hands and no contract had been signed (as of your first report -when I had asked) then what legal reasons are there that this deal is not reversible or modifiable in some way?

3d - If there might now be an existing contract of sale with these collectors - I would like to have copies of any such paper-work - (as it would seem that I could now potentially become a creditor to them as well).

3e - What tangible legal guarantees or collateral do you have to ensure their ongoing payments over such an extended period? or what contingencies did you secure for the return of the works in the event of yet another potential default?

4- The only alternative that I can come up with in the face of your statement that you are unable or unwilling to try to renegotiate the deal is to exercise my formal right of ownership - and to address a letter of my own to these collectors - (that I would be glad to run past you first for approval) - in which I explain that there was a little 'mix-up' in a way that hopefully won't reflect badly on you - and request at least the return of "Red Table Still Life" or "Dial" from the original deal.

5 - As to your suggestion that we need a new 'protocol' - since I have always operated under the presumption that you would always consult with me before offering any discounts on my prices - I certainly agree with you now that such a protocol needs to be clearly established. Please write me your own statement of such understanding.

6 - En lieu of all the recent break-downs in our communications - it seems that the most straight-forward way of ensuring that no other such mistakes are made going forward is for us to start over with a blank slate. To accomplish this I have decided it best to request the immediate return of all my inventory. This will give me an opportunity to revisit and reassess the remaining works and the peace of mind in knowing that the prices of every work that I release back to you is fully updated. In doing so - I have no intention of severing our ongoing business relationship and while it may require more effort on my part to arrange for you to show things - it may help restore some measure of my level of comfort.

7 - During our recently heated discussion - I asked you to clearly freeze any further offerings of sales (especially of "FIN" ! and "Punchcard Flutter" !) until we had an opportunity to reconsider existing prices in light of the recent auction sales. I would like to be assured by you that you have communicated this to any other staff at the gallery who might present my father's work and that you have recalled any works that are currently 'out' or will otherwise consult with me immediately as to their asking prices.

7a- I happened to receive an automatic e-mail notice the other day that the painting The Plan #2 is now being offered for sale at Mark Borgesi(?) gallery. Since no discussion was had with me about this, I would like to know what arrangements were made, at what price, or if indeed it may somehow have already been sold?

7b- What specifically is the status of my tapestry for Seme? I would like it returned to potentially offer it at the Art for New Orleans benefit coming up.

Dear Larry - please know that it is because you have always treated me in such a positive, loving and respectful manner - that I have always felt extremely grateful and even came to take it all for granted. I have therefore never felt so strongly compelled to have to come to grips with the reality of just how important it is that we make every effort to communicate clearly and iron this stuff out. I appreciate the hell out of you Larry and although I hate to add to your general aggravation or be the cause of raising your bp one notch - I hope you can appreciate my 'need to know', as well as my desire to explore other options and the overall necessity of

re-clarifying our business relationship for the future....

I Love you back - Earl

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